

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA                    )  
  )  
v.   ) Criminal No. 06-10356-RWZ  
  )  
  )  
EUGENE TERRELL PATRICK                    )

JOINT STATUS REPORT ON MOTION TO REDUCE SENTENCE

The defendant has filed a Motion to Reduce Sentence pursuant to 18 U.S.C. §3582(c). The Court has appointed Attorney Mark Smith to represent the defendant in connection with this motion. The parties are hereby filing this Status Report regarding the motion and their respective positions with respect to it as required by the Court's Procedural Order:

A. Eligibility

The government asserts that the defendant is ineligible for a sentence reduction because he was sentenced as a career offender under U.S.S.G. §4B1.1. Because his sentence did not arise under the crack cocaine provisions of U.S.S.G. §2D1.1, the government believes that there is no basis to reduce his sentence. The government also believes that any further reduction would be inappropriate because the Court sentenced the defendant to substantially below the advisory guideline range. E.g., United States v. Clark, 2008 WL 686121 (D.Kan.2008.) (where Court previously varied under 3553, no further reduction

warranted). The government has already its Opposition to the defendant's motion for a sentence reduction.

The defendant has obtained until 12/19/08 to respond to the government's opposition.

B. Revised Guideline Calculation

Because the defendant was sentenced as a Career Offender, the government believes that his guideline range remains unchanged.

The defendant asserts that he is entitled to a further reduction from the advisory guideline reduction and will address the reasons for that belief in the memorandum to be filed on 12/19/08.

C. Recommendation

The government does not believe that any reduction in this case is permissible or warranted.

The defendant asserts that he is entitled to a reduction and will address the extent of its recommended reduction in the memorandum to be filed on 12/19/08.

D. Hearing

The government asserts that no hearing is necessary because it believes that the defendant is ineligible for any reduction as a matter of law.

The defendant will address this issue in the memorandum to be filed on 12/19/08.

E. Earliest Release Date

According to information available from the BOP, Defendant's present projected release date is 7-6-2022.

F. Briefing Schedule on Issues.

The government believes that the defendant is ineligible for any reduction as a matter of law. The government will respond to any arguments to the contrary made by the defendant within 14 days after a memorandum is filed on December 19, 2008.

G. Transcript

The parties believes that none is required.

H. Plea Agreement

There was no plea agreement in this case.

Respectfully submitted,

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